1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D.

OWENSBY JR., et al.,

Plaintiffs,

vs. : Case No. 01-CV-769

: (Judge S. A. Spiegel)

CITY OF CINCINNATI, et al.,

:

Defendants. :

Deposition of JASON LEE HODGE, defendant herein, called by the plaintiff for cross-examination, pursuant to the Federal Rules of Civil Procedure, taken before me, Wendy Davies Welsh, a Registered Diplomate Reporter and Notary Public in and for the State of Ohio, at the offices of Helmer, Martins & Morgan Co. LPA, 1900 Fourth & Walnut Centre, 105 East Fourth Street, Cincinnati, Ohio, on Thursday, April 8, 2004, at 10:06 a.m.

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15 Phone: (513) 31-9200 16 On behalf of the Defendants Robert B. Jorg, Patrick Caton, Josen Hodge, Victor Spellen and Oarren Sollers: 17 Onseale E. Marsin, Edg. Historia, Lotron, League & Marse, Lic 915 Citecinated Club Building 32 Abort process. 27 Abort process. 28 Abort process. 29 Hence: (513) 721-7300 20 Abort process. 20 Abort process. 21 It is stipulated by and among counsel for the separative parties that the appetition of JASON LEE 4 Hoods, defendant herein, called by the plaintiff for 5 cross-seasifiation, pursuant to the federal bules of 6 Civil Procedure, may be taken at this time by the notary; whose notes may 9 then be transcribed out of the presence of the witing in stenetype by the notary; whose notes may 10 witing in stenetype by the notary; whose notes may 11 and qualifications of the official chasecter 12 and qualifications of the official chasecter 13 and qualifications of the notary is expressly 11 and qualifications of the notary is expressly 12 waved. 10 Witness; and that proof of the official chasecter 14 and qualifications of the notary is expressly 13 and 34. A 20th, 15 Q. Have you ever had your deposition taken? 14 A. 20th, 15 Q. Have you ever had your deposition taken? 15 Q. This sort of procedure? 18 A. No. 19 Q. Let me cover some ground rules. You've	14	One West Fourth Street		14	Deposition Exhibit 163
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18 A. No. 19 Q. Let me cover some ground rules. You've	17				
19 Q. Let me cover some ground rules. You've	18				
20	19			18	
20 been placed under oath. I am asking you some					
21 questions. If I should ask you a question and you					
22 either don't understand the question or you haven'					
23 heard the question, just ask me to clarify it or					
24 repeat it. I'll do my best. If you give me an				~ .	

JASON LEE HODGE

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April 8, 2004 Page 90 1 Caton taking the handcuffs off of, either one or 1 A. I did. 2 both, taking the handcuffs off of Mr. Owensby? 2 Q. So you collect it in an evidence envelope. A. No. 3 What do you do with it? Q. Do you recall seeing anybody remove the A. I closed the envelope and handed it back 5 handcuffs? 5 to Hasse. A. No. 6 Q. Did you give him any instructions? Q. When you had your CPR training at the 7 A. I told him to hold on to it. 8 police academy do you recall whether you received 8 Q. Did Officer Hasse say anything to you 9 any instructions concerning whether or not if 9 about it? 10 someone's hands are handcuffed behind their back, A. I don't recall if he said anything at the 10 11 whether the handcuffs should be removed in order to 11 scene about it, no. 12 do CPR? 12 Q. Other than seeing this white or yellowish 13 A. I don't remember anything about that. substance around Mr. Owensby's mouth after the hose 14 Q. Continuing on, you say, "looked like they was taken out, did you have any reason to believe 15 put a suction hose down his throat when the took 15 that Mr. Owensby had ingested any crack cocaine? 16 the, took the hose out...like...yellowish 16 A. Other than that, no. 17 white flakes came out of his mouth. I told Hasse I 17 Q. I take it, as someone in the mini-tac 18 said, 'Go get me a. . . property envelope.' I went unit, you come into contact with people who either 19 and put a glove on. . . I recovered those flakes. I sell or use crack cocaine? 19 20 thought it was, it may of been crack cocaine or 20 A. Most officers in Cincinnati do, yes. 21 something." Do you recall that happening? 21 Q. Do you know whether or not on this day

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1

24

Page 93

1 of his throat? A. No, they were around his mouth. It was 2 around his mouth. Q. But it was after they had pulled the hose 5 out?

Q. The yellowish white flakes coming out of

24 his mouth, was that on the hose that they took out

6 A. Yes. Q. Why did you think that it was crack 7 8 cocaine?

A. It's been my experience as a police 10 officer that we have the knowledge that when people

11 ingest certain drugs it can cause people to have

12 heart attacks or just certain medical problems. And

13 I thought that that might have been a possibility of 14 why the fire department had to be called and why CPR

15 was being done, because he possibly had ingested

16 drugs. And I wanted to recover that substance to

17 have it tested.

22

23

A. Yes.

18 Q. My question though is, why crack cocaine?

19 Why not PCP or some other --20

A. Because crack cocaine has a yellowish

21 white tint to it.

22 Q. Did you collect, physically collect the

23 yellowish white substance into an evidence envelope

24 or did someone else?

Q. When you say, "No, I did not," no --

2 A. I did not make any arrests.

before arriving on the scene?

A. No, I did not.

3 Q. "No, I did not make any arrests"?

A. Not that day.

Q. Because it was fairly early in your shift? 5

22 whether you had made any arrests for crack cocaine

6 A. It was at the beginning of my shift, yes.

Q. Do you know whether or not you had made

8 any arrests for crack cocaine the day before?

A. I don't recall if I did or not.

Q. Do you know whether or not any of the 10

11 other police officers at the scene had made any

12 arrests for crack cocaine?

13 A. I don't know.

Q. When an officer makes an arrest for any 14

15 drug, whether it be crack or something else, was it

16 at that time the practice to inform the mini-tac

17 unit?

18 A. No, not necessarily.

19 Q. As I recall, the reason that you were even

20 at the Roselawn area was because Officers Hasse and

21 Sellers had arrested someone for possession of

22 marijuana and they were interested in having you

23 interrogate the person to see if you could find some

24 information about --

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JASON LEE HODGE

Page 106

- 1 "After that point I noticed that Officer Jorg had
- 2 blood on his left sleeve." Do see that?
- A. Yes.
- Q. Then further down through the statement on
- 5 that page you say, "I finally got his attention,"
- 6 that's the beginning of the next paragraph, "his
- 7 police car was just I guess for the record it is
- 8 96340 where the police car where we were standing
- 9 behind. I was cutting his sleeve off. . . "
- And then you continue down, and you say at 10
- 11 line 18, "He looked really upset so I went up and
- 12 tried to console him saying look, you know, I don't
- 13 think, I don't think this is your fault. I think
- 14 the guy might have swallowed crack or something."
- 15 Do you see that?
- 16 A. Yes.
- 17 Q. Do you recall saying to Officer Jorg, "I
- think the guy might have swallowed crack or
- 19 something"?
- 20 A. Right now I don't remember saying that to
- 21 him, but apparently, I did.
- 22 Q. Well, my question is, if you cut the
- 23 sleeve off before CPR was administered, and that
- would have been before you saw the white substance

- Page 108 1 statement, whether or not you were buying the soda
- 2 for Officer Jorg or Officer Caton or someone else?
- A. It appears, Officer Caton.
- Q. Do you have an independent recollection of
- 5 buying the soda for Officer Caton?
- A. I believe I remember buying a soda, but I
- 7 don't remember who I bought it for.
- Q. Go to page 446. Actually, the bottom of
- 9 445. Line 23, you're talking about a conversation
- 10 you had with Officer Caton. And then if you go over
- 11 onto 446, line 5 and 6 you say, "Caton had stated to
- 12 me that he did punch him."
- Having seen this, do you recall a 13
- 14 conversation with Officer Caton where he said that
- 15 he did punch Mr. Owensby?
- 16 A. I've heard it several times. I don't
- 17 remember exactly when I was told the first time.
- Q. My question is, do you recall Officer 18
- Caton telling you that he, Officer Caton, punched
- Mr. Owensby?
- 21 A. I don't remember exactly him telling me
- 22 that, no.
- 23 Q. You see that the follow-up question at
- 24 line 9 says, "Did he say whether he needed to punch

Page 107

- 1 around Mr. Owensby's mouth when the hose was pulled
- 2 off, what basis you would have for telling Officer
- 3 Jorg, while you're cutting the sleeve off, that you
- 4 think this guy might have swallowed crack?
- 5 MR. HARDIN: I'm going to object on the
- 6 basis that, first of all, you've left out a
- 7 great deal of the answer that hasn't been read
- 8 in. It goes on for another page and a half.
- 9 along with the part right after what you read
- 10 that says, "Let me jump back-- I missed out a
- 11 part." So I'm going to object.
- 12 Go ahead and answer.
- MR. MARTINS: No. No. No. That's fine. 13
- 14 I misread that and I withdraw the question.
- 15 Q. Let me ask you then, at the time you cut
- 16 the sleeve off of Officer Jorg, did you say anything
- 17 to him about thinking that the person had taken
- 18 crack?
- 19 A. I don't believe I did, no.
- 20 Q. On the next page, 441, at line 20 and 21
- 21 you say, "I came back into Sunoco store, bought him
- 22 a soda, walked it back to him." Do you see that?
- 23 A. Yes.
- 24 Q. Can you tell me, take a look at the

- Page 109 1 him in order to do what he was trying to do or did
- 2 he say he was mad and punched him or you know?"
- 3 And you say, "I don't, I couldn't quote
- him on anything, I don't think, I don't know." 4
- 5 Do you see that?
- 6 A. Yes.
- Q. As you sit here today, do you know whether
- 8 or not Officer Caton ever indicated to you that he
- punched Mr. Owensby out of anger or out of trying to
- get him to comply? 10
- 11 A. Do I know whether or not he punched him
- 12 out of anger or to comply?
- 13 Q. I'll give a third option. That is whether
- 14 or not Officer Caton told you that he punched Mr.
- 15 Owensby at all?
- 16 MR. HARDIN: Wait a minute. I'm going to
- object. I don't understand where the question 17
- 18
- 19 MR. MARTINS: Okay. Let me rephrase it.
- 20 Q. You see what I've just read to you,
- 21 lines 9 through 13. The question is put to you as
- to whether or not Officer Caton told you that he
- needed to punch in order to try to get Mr. Owensby
- 24 to do something or whether or not he was mad and